

ESTTA Tracking number: **ESTTA583992**Filing date: **01/27/2014**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Petition for Cancellation**

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	Anchor Wall Systems, Inc.		
Entity	Corporation	Citizenship	Minnesota
Address	5959 Baker Road Suite 390 Minnetonka, MN 55345 UNITED STATES		

Attorney information	Brent E. Routman Merchant & Gould, P.C. P.O. Box 2910 Minneapolis, MN 55402-0910 UNITED STATES broutman@merchantgould.com Phone:612.336.4619
----------------------	---

Registration Subject to Cancellation

Registration No	3148201	Registration date	09/26/2006
Registrant	Three Wise Men, Inc. 11818 San Marino St. Rancho Cucamonga, CA 91730 CANADA		

Goods/Services Subject to Cancellation

Class 019. First Use: 2004/10/01 First Use In Commerce: 2004/10/01
All goods and services in the class are cancelled, namely: Wooden Flooring; Laminate Flooring; Ceramic Tile Flooring; Parquet Flooring; Wood Tile Flooring; Veneer Flooring; Concrete Flooring; Rubber Flooring; Synthetic Flooring; and Non-Metal Flooring

Grounds for Cancellation

<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)
---	---

Attachments	Petition to Cancel MW MAX WINDSOR.pdf(111216 bytes)
-------------	--

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/ber/
Name	Brent E. Routman

Date	01/27/2014
------	------------

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Anchor Wall Systems, Inc.)	
)	
Petitioner)	Cancellation No. _____
)	
vs.)	Mark: MW MAX WINDSOR
)	
Three Wise Men, Inc.)	
DBA Max Windsor Floors,)	
dba Max Windsor Products)	
)	Reg. No. 3,148,201
Registrant)	
)	

PETITION TO CANCEL

Anchor Wall Systems, Inc., a Minnesota Corporation, having its principal place of business at 5959 Baker Road, Suite 390, Minnetonka, Minnesota 55345 (hereinafter referred to as “Petitioner”), believes that it is, or will be, damaged by the continued existence of Registration No. 3,148,201 for the mark MW MAX WINDSOR owned by Three Wise Men, Inc., d/b/a Max Windsor (hereinafter referred to as “Registrant”), and hereby petitions to cancel said registration. The grounds for cancellation are as follows:

1. Petitioner, Anchor Wall Systems, Inc., is a Corporation, duly organized and existing under the laws of the State of Minnesota.
2. Upon information and belief, Registrant, Three Wise Men, Inc. DBA Max Windsor Floors, dba Max Windsor Products, is a Corporation duly organized and existing under the laws of the State of California.
3. On or about August 22, 2005, Registrant filed a use-based application for the mark **MW MAX WINDSOR**, for “Wooden Flooring; Laminate Flooring; Ceramic Tile Flooring; Parquet Flooring; Wood Tile Flooring; Veneer Flooring; Concrete Flooring; Rubber Flooring; Synthetic

Flooring; and Non-Metal Flooring” claiming a date of first use for all the goods of October 1, 2004.

4. On or about September 26, 2006, the Registrant’s mark **MW MAX WINDSOR** registered for the goods listed in paragraph 3 above, namely, “Wooden Flooring; Laminate Flooring; Ceramic Tile Flooring; Parquet Flooring; Wood Tile Flooring; Veneer Flooring; Concrete Flooring; Rubber Flooring; Synthetic Flooring; and Non-Metal Flooring.

5. On or about January 12, 2012, Ms. Joannie Liu, an “officer” of the Registrant signed and filed a verified Combined Declaration of Use and Incontestability under Sections 8 & 15 for “Wooden Flooring; Laminate Flooring; Ceramic Tile Flooring; Parquet Flooring; Wood Tile Flooring; Veneer Flooring; Concrete Flooring; Rubber Flooring; Synthetic Flooring; and Non-Metal Flooring” and attesting that “the mark is in use in commerce on or in connection with the goods and/or services... and that the mark has been in continuous use in commerce for five (5) consecutive years after the date of registration, or the date of publication under Section 12(c), and is still in use in commerce” and acknowledged that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements and the like may jeopardize the validity of this document, declares that he/she is properly authorized to execute this document on behalf of the Owner; and all statements made of his/her own knowledge are true and that all statements made on information and belief are believed to be true.”

6. Upon information or belief, Petitioner alleges that the registration was obtained fraudulently, renewed fraudulently, or that the Combined Declaration of Use and Incontestability filed by the Registrant was fraudulent or contrary to the provisions of section 1054 of this title or

7. Petitioner will be damaged by the continued registration of the mark shown in the registration sought to be cancelled

Please charge the filing fees for this application to Deposit Account No. 13-2725 and direct all correspondence and communications to the undersigned.

Merchant & Gould, P.C.
P.O. Box 2910
Minneapolis, Minnesota 55402-0910
Telephone: (612) 332-5200

By: _____/ber/_____
Brent E. Routman

I hereby certify that a true and correct copy of the foregoing PETITION TO CANCEL was served upon the Registrant, Three Wise Men, Inc., d/b/a Max Windsor, by mailing a copy of the Petition to Cancel to the Registrant, Three Wise Men, Inc. DBA Max Windsor Floors, dba Max Windsor Products, at 11818 San Marino St. Rancho Cucamonga, California 91730 via First Class mail prepaid this 27th day of January 2014.

3

Brent E. Routman
Merchant & Gould, P.C.
P.O. Box 2910
Minneapolis, Minnesota 55402-0910
Telephone: (612) 332-5200